

Notice of Allowability	Application No.	Applicant(s)	
	10/024,174	KUDOU ET AL.	
	Examiner	Art Unit	
	Robert Sellers	1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment after Final rejection filed 25 March 2005 which has been entered.
2. ☒ The allowed claim(s) is/are 1-4,10 and 11.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

The following is an examiner's statement of reasons for allowance:

The limitation of elastomer (B) to a polyether ester amide resolves the 35 U.S.C. 112, first paragraph, rejection.

The amendment filed November 23, 2004 in the table on page 8 provides calculated ratios of acid groups of acid-modified olefinic resin (C):amide groups of polyether ester amide elastomer (B) for Example 17 of Table 5 (page 43 of the specification) and Examples 19-25 and Comparative Example 17 of Table 6 (page 45).

Examples 17 and 19-24 reflect the claimed composition with a representative sampling of acid:amide ratios within the claimed range of from 0.1-50:100. Comparative Example 17 represents the closest prior art to Ueda et al. Patent No. 5,652,326 wherein a non-acid containing polyolefin is employed. The evidence presented in Tables 5 and 6 demonstrate unexpected results in tensile elongation percentage and Izod impact strengths for the claimed acid:amide ratio range.

The closest prior art example is embodied in Example 54 of Ueda et al. Patent No. 5,652,326 (col. 29, Table 21) containing polyether ester amide A-2 (col. 13, Example 2), polyethylene B-7 (col. 29, Table 19 footnote), polyacetal resin B-8* (Table 21 footnote) and maleic anhydride-modified polyethylene C-7 (col. 20, Preparation Example 7). The combined weight of polyether ester amide A-2 and C-7 is 30 parts by weight per 100 parts by weight of the composition (phr) which is within the claimed parameters of from 0.5-60 phr. However, the level of polyether ester amide A-2 relative to anhydride-modified polyethylene C-7 is 92.9:7.1 which is outside of the claimed limits of from 10:90 to 90:10% by weight.

Since the acid:amide ratio of Example 54 cannot be ascertained, the low content of anhydride-modified polyethylene in the closest prior art is accurately reflected in Comparative Example 17 which exhibits inferior tensile elongation percentage and Izod impact strength.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Sellers whose telephone number is (571) 272-1093. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



Robert Sellers
Primary Examiner
Art Unit 1712